

PART C. — PROCEEDINGS WITH RESPECT TO SUCCESSION
CERTIFICATES.

As some doubt and difference of opinion existed in connection with the application of Sections 5 and 6 of the Indian Soldiers' Litigation Act, 1925, to cases for the grant of succession certificates under the Indian Succession Act, 1925 (No. XXXIX of 1925), the following instructions have been issued for the guidance of subordinate Courts.

- (1) A "party to any proceeding" is a person actually impleaded e.g., a plaintiff or defendant or an appellant or respondent—and the phrase does not include persons named under section 372, sub section (1), clause (c) of the Indian succession Act, 1925, in an application for the grant of a certificate until the Court has, by order under Section 373 (1) (a) of that Act, expressed the opinion that special notice of the application should be given to them. Party to a proceeding.

- (2) When the Court finds that a person falling under clause (c) of Section 372 (1) aforesaid , is an Indian soldier serving under special or War conditions, and there is no special and obvious reason for suspecting the good faith of the members of the family actually applying for the certificate, the Court should declare that, in the circumstances, it is unnecessary to make the soldier a party to the proceeding or to issue notice to him; but in such cases the Court should always demand security under section 375 of the Act. If, on the other hand, there is any good reason to suspect the good faith of the applicant, then he should be required to get a power of attorney from the absent soldier or some written assurance from him that he does not object to the application. Notice to Soldiers under section 6 of the Succession Act.